

PLANNING COMMISSION MINUTES

July 15, 2008

7:00 P.M.

Present: Chairman Clark Jenkins, Vice Chairman Tom Smith, Michael Allen, Dave Badham, Barbara Holt, City Council Representative Beth Holbrook, City Attorney Russell Mahan, Planning Director Aric Jensen, and Recording Secretary Connie Feil.

Absent: Ray Keller and City Engineer Paul Rowland.

Clark Jenkins welcomed all those present.

Tom Smith made a motion to approve the minutes for July 1, 2008 as written. Barbara Holt seconded the motion and voting was unanimous in favor.

1. Consider preliminary and final site plan approval for the Orchard Gardens Apartments (12 plex), located at 303 & 321 W. 2600 S., Wilson Properties, applicant.

Sharmon Smoot, representing Wilson Properties, was present. Aric Jensen explained that Mr. Smoot is requesting preliminary site plan approval for 12 multi-family units. Wilson Properties owns the Orchard Garden Apartments and has recently acquired two adjoining parcels of land adjacent to the northwest corner of that development.

The development will be composed of (8) 2 BDM units, and (4) 3 BDM units. The new development will add 31 new parking stalls to the existing 116, for a total of 147. This is approximately 8 more than the minimum required. The applicant is proposing to cover 16 of these stalls, however, the location of the covered parking is not shown on the plans, nor has an illustration been provided showing the construction of this facility.

The plans do not show how the new addition ties into the existing project. The majority of the drainage on the addition will flow into an underground detention basin located under the parking lot, which will then be metered out through a new storm drain to an existing catch basin in 2600 South.

The project architect has provided elevations and floor plans of the building. There is insufficient brick or stone to meet the minimum 50% requirement. Staff recommends increasing the amount of stone vertically in the areas under the gable ends and/or increasing the height of the stone wainscot until the minimum 50% is achieved.

There are some other basic elements missing from the site plan that need to be added before final approval. First, the existing fire hydrants and fire lines that service this development are not shown. An additional fire hydrant may be required on the east side of the property if there isn't one already.

Second, the plan shows that the water laterals that service the two existing homes would be reused for this project. This is clearly insufficient and the project engineer/architect needs to evaluate the culinary water demand for this project and provide a water lateral and meter(s) of the appropriate size.

Third, a 4" sewer lateral is not large enough for 12 units. The applicant either needs to construct a new, minimum 6" sewer lateral, or receive approval from South Davis Sewer to use the substandard 4" existing laterals.

Fourth, there is no dumpster enclosure shown on the site plans or building elevations.

Fifth, the landscaping plan does not identify the planting materials, nor does it address the steep slope to the south of the parking lot or the grading/retaining wall that will be required northwest of the building along 2600 South.

There are several other redlines/general construction notes which are included in the redlines being provided to the architect/project engineer. One of these is that the site plans do not show the surrounding buildings and uses located within 50 feet of the property boundaries.

The proposed development is an extension of the existing Orchard Garden Apartments and will utilize the existing driveway circulation system, thus eliminating two curb cuts on 2600 South. There are sufficient red lines that Staff can only recommend preliminary approval.

Staff recommended preliminary site plan approval with the condition that all of the corrections and issues mentioned in the staff report and in the redlines are addressed and corrected.

Sharman Smoot explained that all recommendations and issues will be addressed and will be presented at time of final approval. Mr. Smoot feels that the project will fit well with the neighborhood.

After a brief discussion Dave Badham made a motion to recommend to the City Council preliminary site plan approval for 303 & 321 W. 2600 S. based on the findings outlined by Staff. Tom Smith seconded the motion and voting was unanimous in favor

After a brief discussion it was decided to present preliminary and final approval to the City Council after the Planning Commission has approved the final site plan.

- 2. Consider a lot line adjustment for 851 S. Canyon Crest Dr. and 850 S. Lakeview Dr., Robert Murray, applicant.**
- 3. Consider final subdivision plat approval for Murray Subdivision located at approximately 850 S. Lakeview Dr., Robert Murray, applicant.**

Robert Murray, applicant, was present. Aric Jensen asked to consider this lot line adjustment and the final plat approval together since both items deal with the same property. Mr. Jensen stated the he would explain both proposals, but separate motions will need to be made. Chairman Jenkins agreed with the proposal.

Mr. Jensen explained that on July 1, 2008, the Planning Commission recommended preliminary approval of the Murray Subdivision with several conditions, one of which was that the plat be revised as a two-lot subdivision containing the proposed new lot and the remainder parcels of land. During the process of drafting the staff report for the City Council, the City Engineer, Attorney, and Planner met and came to the consensus that there was an easier way to accomplish the same objective. Their proposal, which was endorsed by the City Council on July 8th, is to effect a lot line adjustment such that the boundaries of the two existing metes and bound parcels match the proposed subdivision boundaries. Then the proposed single lot subdivision plat can be approved without the need to include the additional land.

Staff recommends that the Planning Commission make two motions:

- A. Approve the proposed lot line adjustment for 851 South Canyon Crest Dr. and 850 South Lakeview Dr. with the findings that it will not create a new parcel of land nor will it violate any provisions of our Land Use Ordinance.
- B. Recommend Final Approval of the Murray Subdivision Plat with the following conditions:
 - 1. Provide a current title report.
 - 2. Have the final plat signed by all owners listed on the title report
 - 3. If necessary, change the name to a unique name not previously used.
 - 4. Correct the indicated redlines.
 - 5. Indicate on the final plat that the area north of the creek is a non-buildable area.
 - 6. Pay the following fees:

| | |
|------------------------|---|
| Move water line fee: | \$21,000.00 (estimate, actual charges will be assessed when work is complete) |
| Storm Water Impact Fee | 1,639.47 |
| Checking Fee | 100.00 |
| Recording Fee | <u>50.00</u> |
| | \$22,789.47 |

Michael Allen made a motion to approve the lot line adjustment for 851 S. Canyon Crest Dr. and 850 S. Lakeview Dr. as proposed by Staff. Beth Holbrook seconded the motion and voting was unanimous in favor.

Michael Allen made a motion to recommend to the City Council final subdivision plat approval

for Murray Subdivision as proposed by Staff. Barbara Holt seconded the motion and voting was unanimous in favor.

4. PUBLIC HEARING - Consider a zone map amendment from R-3 to RM-13 located at 551 E. Indian Springs Rd., Barrett Peterson & Marc Menlove, applicants.

Barrett Peterson and Marc Menlove, applicants, were present. Mr. Jensen explained that Mr. Barrett Peterson and Mr. Marc Menlove are requesting a zone map amendment from R-3 to RM-13 for approximately 1.43 acres of land at 551 East Indian Springs Road. The area to be rezoned is only a portion of a larger parcel that contains a total of approximately 5.35 acres.

The property was originally developed in the Unincorporated Davis County in approximately 1962 as a secondary residential/vacation property and included a large clubhouse-style building, tennis courts, and other improvements. At some point subsequent to this date, the property owners divided the large clubhouse building into three living units. It is not known whether this was accomplished legally/with a building permit, but the records of the County Assessor still show this being assessed as a 7400 sq. ft single-family residence. There are currently three residential units on the property; two are located up and down in the main structure, and the third is connected by an attached breezeway.

The applicants would like to subdivide the property into at least three lots, two of which would be single-family lots, and the remainder would house the existing three-unit structure. The problem is that the three-unit structure is a non-conforming use. The issue is that non-conforming uses lose their protective status if they are changed. As soon as the owners voluntarily change the property from its current configuration and use, then it must be brought into compliance with the current zoning requirements.

The City Engineer and City Planner have met with the owners and discussed several options. The first option is to demolish the existing three-family structure and to develop the property as either a PUD or typical single-family subdivision of 4-6 lots. The problem is that one of the owners recently invested a significant amount of money in one of the up and down units and doesn't want to lose his investment.

The second option was to combine the up and down units into a single dwelling, remove the breezeway attaching the third unit, and then developing the property as a PUD. That would allow whatever value there is in the structure to be preserved. The applicants stated that the individual who had recently invested in his unit wasn't interested in this proposal.

The last option, which was suggested by the applicants, was to rezone a portion of the property to multi-family, and then develop the rest as single-family. This is commonly referred to as spot-zoning and was illegal throughout the State until two years ago when the governing language was removed from LUDMA. Regardless, spot zoning is a bad practice and flies in the face of just about every City land use policy.

Mr. Jensen continued to explain that in Section 14-2-205 of the Bountiful City Land Use Ordinance and Map provides guidance for rezoning properties. In subsection B. it states:

For the purpose of establishing and maintaining sound, stable, and desirable development within the City, it is declared to be the public policy that amendments shall not be made to this Ordinance or Map except to promote more fully the objectives and purpose of this Ordinance or to correct manifest errors.

This proposal to rezone a single parcel of land in the middle of a single-family neighborhood simply for the financial benefit of the property owners does not promote the objectives or purposes of the Land Use Ordinance in any way. If the property owners want to develop the property, they should do it in conformance with existing R-3 Single-Family Zone.

Staff recommends denial of the proposed zone amendment from R-3 to RM-13 with the findings that it is spot-zoning, that it does not further the objectives of the Land Use Ordinance, there is no manifest error, and that this property should be developed in accordance with the existing R-3 Single-Family Zone.

Barrett Peterson explained that, in the past, this property was used as a horse riding club which over the years became a blighted area. The family bought the property and turned the main structure into nice family units. They now wish to divide the property into 4 to 6 parcels and would like to keep the property within the family. The triplex needs to remain and have the remaining property used for single family. The family members want to work with the City to find a compromise for the situation.

Marc Menlove explained that the family wishes to divide the property into no more than 4 lots. They have no intention of increasing the density of the property. The family wishes to establish a stable and desirable development and keep the integrity of the ordinance.

Barrett Petersen presented a power point presentation showing the property with the triplex in the middle of the property. He also pointed out the division lines for the 4 lots. Mr. Peterson explained that the desire of the family is to keep the triplex as one family unit and divide the remaining property into three lots. It was suggested to add conditions on the triplex that if any rebuild is done, it will be built as a single family home.

Aric Jensen mentioned that he had a conversation on the phone with a representative speaking for Dixie Shaffer, residing at 3404 S. Bountiful Blvd. Ms. Shaffer is opposed to the rezone, does not agree with having multi-family in a single family zone, and if the rezone is approved she would also like her property rezoned to multi-family.

Clark Jenkins read a letter from Jan Bair also opposing the rezone. The letter will be attached to the minutes.

The public hearing was opened for all those with comments and concerns.

John Bradshaw, residing at 465 E. Indian Springs Road, feels that the property owners have improved the property even though it is a non-conforming use. The property can support an additional 3 single family lots. The multi-family use does not fit the area, but there should be a way to continue using the non-conforming use as a triplex until any changes are made. At that time the use should be reversed to single family. Mr. Bradshaw is opposed to the rezone to RM-13.

Richard Dunn, residing at 1000 E. Canyon Creek Dr., agrees with having 4 single family lots on this property. Mr. Dunn asked if the rezone were approved, would it be required to upgrade the triplex structurally to meet current codes. Mr. Dunn was told that such an upgrade would be required only if a remodel was done.

Alan Bolt would prefer to a Conditional Use Permit or to grandfather the triplex, and when any changes are made, such as a remodel, a fire, or disaster of nature, the triplex would be built as a single family home.

The public hearing was closed without further comments.

There was a discussion regarding placing a condition of approval on the triplex stating that it would have to be replaced with a single family home if the structure is destroyed 50% or greater.

After the discussion Barbara Holt made a motion to recommend to the City Council to deny the rezone from R-3 to RM-13 at 551 E. Indian Springs Road with the findings that there has not been any manifest errors and that request is not constant with good planning. Dave Badham seconded the motion and voting was unanimous in favor.

The applicants decided not to go before the City Council for the rezone. The applicants and City Staff will research for some other type of solution.

5. PUBLIC HEARING - Consider preliminary And final subdivision plat approval for Wilsonwood Subdivision located at 785 S. 100 E., Bountiful City, applicant.

Aric Jensen explained that this proposed 3-lot subdivision is located on the east side of 100 East, directly across from City Hall, on the site commonly referred to as “the old indoor pool property.” Bountiful City demolished and removed the pool in 2007 because its seismic instability made the building more expensive to upgrade than it was worth.

Bountiful City has discussed with Davis County School District the possibility of subdividing the property into three lots that the district could purchase to be used in their vocational training program. With the proximity to the Jr. High soccer field which is used by Bountiful High as their home soccer field, the City Council felt it was in the best interest of future home owners and

the public to keep the parking lot intact to provide a soccer ball buffer and to reduce the on street parking during soccer games and practices. The subdivision will have three lots, only two of which will be available for residential construction. If at a future date the use of the Jr. High property changes, the District could ask the Council to remove this restriction.

The property is located in the R-4 zone, which requires each lot to have at least 70.00 ft of frontage and contain at least 8,000 sq. ft of land. Two of the lots have 70.00 ft. of frontage with the parking lot parcel having 75.15 ft. so as to encompass the existing parking improvements. Because the property is so deep, the two smaller lots have over 12,000 sq. ft of property, which is substantially more than the minimum required.

The street improvements, including sidewalk and curb-gutter, are already in place. An 8" sewer lateral and 2" water lateral, which used to serve the indoor pool, are already stubbed into the property and service connections can be provided off of these laterals without cutting into the street. The service connections and related work should be accomplished at the time the first house is constructed. No bonding will be required for these improvements, but the curb and gutter will need to be brought up to standard at the time of construction.

Staff recommends that the Planning Commission send a favorable recommendation for preliminary and final subdivision approval for the Wilsonwood Subdivision plat with the following conditions:

1. Lot three remain a parking lot for the benefit of the soccer fields until the fields are longer used and the Council is willing to lift the restriction.

The public hearing was opened for all those with comments and concerns.

The public hearing was closed without comments.

After a brief discussion Beth Holbrook made a motion to recommend to the City Council preliminary and final subdivision approval for Wilsonwood Subdivision located at 785 S. 100 E. subject to the conditions outlined by Staff with the addition of the following:

2. Require a solid 6 ft. fence between the residential building lot and the required parking lot.

Barbara Holt seconded the motion and voting was unanimous in favor.

6. Planning Director's report and miscellaneous report.

Aric Jensen gave an update regarding the progress of the General Plan.

Meeting adjourned at 8:50 p.m.

